



C.R.P(MD).No.670of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.670 of 2023

D.Nathiya

... Petitioner/Petitioner

Vs.

M.Vijay

... Respondent/Respondent

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and ex-order passed in I.A.No.1 of 2022 in H.M.O.P.No.114 of 2021 on the file of Sub-Court, Melur dated 25.08.2022 and to enhance the monthly maintenance as prayed in the trial court.

For petitioner : Mr.B.Bhuvaneshvari

For respondent : Mr.K.Jeyamohan

ORDER

This Civil Revision Petition has been filed by the petitioner to set aside the fair and ex-order passed in I.A.No.1 of 2022 in H.M.O.P.No.114 of 2021 on the file of Sub-Court, Melur, dated 25.08.2022.



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2.The petitioner herein is the wife who is facing divorce proceedings at the behest of the respondent in HMOP.No.114 of 2021 before the Sub Court, Melur. In the said proceedings, the petitioner filed an application for interim maintenance under Section 24 of the Hindu Marriage Act, 1955. The Sub Court, Melur, has awarded a sum of Rs.1,500/- towards maintenance to the petitioner and Rs.3,000/- as one time litigation expenses payable to the petitioner. The relevant portion of the impugned order reads as under:-

“23.Accordingly, the husband is directed to pay Rs. 1,500/- per month to the wife and Rs.3,000/- as one time litigation expenses from the date of this petition that is from 10.06.2022. Hence, this Court came to the conclusion that fixing of Rs.1,500/- per month to the wife will be appropriate and just in the circumstances of this case. Accordingly the point is answered.

24.In fine, the petitioner is partly allowed. It is ordered that the husband is directed to pay Rs.1,500/- per month to the wife and Rs.3,000/- as one time litigation expenses from the date of this petition that is from 10.06.2022. No costs.”

3.The specific case of the petitioner is that the respondent is a Software Engineer and earning a sum of Rs.3 lakhs per month. It is submitted that the respondent has not produced any document to substantiate that he is earning lesser than Rs.3 lakhs per month. It is submitted that the learned Sub Judge, Melur, has awarded meagre amount of Rs.1,500/- as monthly maintenance to



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the petitioner which warrants interference under Article 227 of the Constitution of India.

4.Per contra, the learned counsel for the respondent submits that the two children who are born out of wedlock between the petitioner and the respondent, are being taken care of by the respondent. It is submitted that the petitioner is living with her parents and the petitioner's father is getting pension more than Rs.1 lakh per month. The petitioner herself is a B.E graduate and is doing online business and therefore, the impugned order does not call for any interference.

5.By way of rejoinder, the learned counsel for the petitioner submits that the two minor children (Twins) are not being taken care by the respondent. They are with the respondent's sister in Tirupur.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the and the learned counsel for the respondent.

7.It is not clear on what basis, the learned Sub Judge, Melur, awarded meagre amount of Rs.1,500/- as monthly maintenance to the petitioner



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without any iota of evidence that the petitioner is having income through online business. The learned Sub Judge, Melur, has also failed to note that the respondent has not produced any document to substantiate that the income that is earning by the respondent was only Rs.1 lakh per month. The fact remains that the petitioner may be living with her parents. However, it is not a reason for not maintaining a wife who is admittedly legally wedded wife of the respondent. The respondent is duty bound to not only maintain his legally wedded wife but also their children.

8.A sum of Rs.1,500/- per month awarded by the Court would not be sufficient for any person to make a decent living with dignity in the society. Even a Blue Collar Worker doing menial work would get not less than Rs.10,000/- per month as wages. The respondent is a software engineer. The petitioner is therefore entitled to same standard of lie as it stood before her separation with the respondent. The standard of living of the petitioner as a wife of a software engineer would have been much higher. Therefore, the petitioner is entitled for enhancement of maintenance.

9.Considering the above, I am inclined to interfere with the impugned order dated 25.08.2022 passed by the Sub Court, Melur in I.A.No.1 of 2022



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in HMOP.No.114 of 2021. The respondent is directed to pay a sum of Rs.20,000/- per month to the petitioner as monthly maintenance.

10. In view of the above direction, this Civil Revision Petition is disposed of. No costs.

28.04.2023

NCC : Yes/No
Index : Yes/No
Internet:Yes/No
dss

To

- 1.The Subordinate Judge,
Melur.
- 2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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